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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,257	10/18/2001	Tatsu Inoue	Q66741	5968

7590 07/28/2005

SUGHRUE, MION, ZINN, MACPEAK & SEAS  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037

EXAMINER

ALPHONSE, FRITZ

ART UNIT	PAPER NUMBER
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2133

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/981,257

Applicant(s)

INOUE, TATSU

Examiner

Fritz Alphonse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 7-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1 and 7-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7/19/04. 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

0.1 This office action is in response to amendment filed on 5/05/2005. Claims 2-6 are canceled, claims 1, 7-13 are amended, and claims 14-21 are added.

#### ***Claim Objections***

1. Claims 1, 7-21 are objected to because of the following informalities: the claims contain typing-errors, making reading difficult. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 15-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Particularly, as to claims 15-21, the limitations “a preference of a user; a first visual indication; a second visual indication” have nowhere been described in the specification.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 15-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Otsuki (U.S. Pat. No. 5,929,932).

As to claim 15, Otsuki (fig. 2) shows a program guiding apparatus including a memory (9) that stores categories corresponding to program and a control circuit (4) that generates a program guide (col. 6, lines 1-7). Otsuki (fig. 8) shows a display that simultaneously displays program cells in the program guide (col. 3, lines 10-26).

As to claims 16-17, Otsuki discloses a program guide including a control circuit, which determines the preference of a user based on a user input that associates categories according to different priorities (col. 3, lines 28-37).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otsuki.

As to claims 18-21, Otsuki does not explicitly teach a program guide apparatus which displays a first program cell with a first shape, color or pattern and a second program cell with a second shape, color or pattern.

However, this is very obvious. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use different shapes, colors or patterns as visual indication

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in a program guide device. Doing so would provide a program guide, which makes it easier for a user to select a program.

8. Claims 1, 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otsuki (U.S. Pat. No. 5,929,932) in view of Eble (U.S. Pat. No. 6,480,208) and further in view of Alexander (U.S. Pat. No. 6,177,931).

As to claims 1 and 14, Otsuki discloses a program guiding apparatus comprising: a storing device for storing program information including a category to which a program belongs (col. 2, lines 32-38); a display mode setting device for setting a display mode for displaying said program cell corresponding to said category (note in figure 4 the display mode setting; col.6, lines 40-46). In addition, Otsuki (figs. 13-15) disclose a program guiding apparatus comprises a displaying device for displaying a generated program guide on a two-dimensional screen. Otsuki (fig. 8) shows a display device for displaying a generated program guide on a two-dimensional screen; an accepting device for accepting a designation of an area (col. 6, lines 66 through col. 7, line 4).

Otsuki does not explicitly disclose a display priority-setting device for setting a display priority level. However, this limitation is clearly disclosed by Eble (col. 1, lines 49-59).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Otsuki with the circuit for controlling display priorities, as disclosed by Eble. Doing so would enable the display of information in a temporal sequence according to different priorities, as well as simultaneously display of further information.

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In addition, as to claim 1, Otsuki does not explicitly disclose a collecting device for collecting statistics on a predetermined program attribute.

However, this is obvious and very well known in the art, as evidenced by Alexander (see col. 29, lines 56-67).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to improve upon the electronic programming guide (EPG), as disclosed by Alexander. Doing so would provide among other things: “improved viewer interaction capabilities with the EPG”. See abstract.

As to claims 9-11, Otsuki (figs. 10, 11) shows display mode of a program guiding apparatus, wherein the display priority level (i.e.; time priority and channel priority; col. 9, lines 22-32) is automatically set based on a viewer history by a user, and wherein said display mode includes a shape, a pattern, or a color of a program cell, or combinations thereof (col. 12, lines 29-42).

As to claim 12, Otsuki (figs. 7, 10, 11) show a program guiding apparatus, wherein there are a plurality of categories (note in fig. 7, a list of categories), and wherein further said display priority level and said display mode are set for each of said plurality of categories to display program cells corresponding to said each of said plurality of categories (col. 6, lines 55-65).

As to claim 13, method claim 13 corresponds to apparatus claim 1; therefore, it is analyzed as previously discussed in claim 1 above.

9. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otsuki and Eble in view of Alexander and further in view Knudson (U.S. Pat. No. 6,536,041).

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As to claims 7-8, Otsuki (figs. 1, 12) disclose a program guiding apparatus, further comprises a displaying device for displaying a generated program guide on a two-dimensional screen.

Otsuki does not explicitly disclose a search device for searching for an area in which a predetermined program attribute satisfies a predetermined condition, in said program guide, and indicating said searched area in said program guide.

However, in the same field of endeavor, Knudson teaches about a program guides that allow users to display program listings in various formats to perform genre-based searches for programs of interest (col. 1, lines 13-17).

Therefore, it would have been obvious to one skilled in the art, at the time of the invention, to improve upon the program guide system, as disclosed by Knudson. Doing so would provide a program guide system in which unique keys may be generated to facilitate the matching of real-time data entries and the program listings with which they are associated.

#### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1, 7-21 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231

**or faxed to:** (703) 872-9306 for all formal communications.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor (Receptionist).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fritz Alphonse, whose telephone number is (571) 272-3813. The examiner can normally be reached on M-F, 8:30-6:00, Alt. Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert De Cady, can be reached at (571) 272-3819.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may also be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR



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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Fritz Alphonse

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July 20, 2004



**GUY LAMARRE  
PRIMARY EXAMINER**